REMARKS

Claims 1-124 are pending in the application.

Claims 1-124 stand rejected.

Claims 1, 27, 28, 29, 58, 59, 89, 90, 120, and 121 have been amended.

Rejection of Claims under 35 U.S.C. §103

Claims 1-10, 15-41, 46-72, 77-103 and 108-124 stand rejected under 35 U.S.C. §103(a), as being unpatentable over Cohen et al, U.S. Patent No. 6,389,462 (Cohen) in view of Geagan, III et al, U.S. Patent No. 6,735,634 (Geagan). Claims 11, 13, 42, 44, 73, 75, 104 and 106 stand rejected under 35 U.S.C. §103(a), as being unpatentable over Cohen, in view of Geagan, and in further view of Riddle, U.S. Patent No. 5,920,732 (Riddle). Claims 12, 14, 43, 45, 74, 76, 105 and 107 stand rejected under 35 U.S.C. §103(a), as being unpatentable over Cohen, in view of Geagan, and in further view of Radko, U.S. Patent No. 5,687,392 (Radko). Applicants respectfully traverse these rejections.

As an initial point, the rejection of claim 27 is not clearly explained. Claim 27 recites, in part, "monitoring space in said transmit buffer." With respect to claim 27, the Office action states,

> Cohen et all teach receiving said data on said second TCP connection from said first server; monitoring space in said transmit buffer; and if said transmit buffer has space, determining whether said first TCP connection need additional data (column 13, line 18-column 14, line 20; data is monitored until all packets are obtained from origin server).

Applicants are unable to find anything in column 13, line 18 through column 14, line 20 of Cohen that teaches data is monitored until all packets are obtained from the origin server. In fact, Applicants are unable to find anything about monitoring a buffer in the cited portion of

Cohen. Column 13, line 18 through column 14, line 20 of Cohen is directed to handling a "GET request [that] may be longer than one TCP segment." It is unclear how this section relates in any way to the subject matter of claim 27. Thus, Applicants respectfully request clarification because the pertinence of Cohen has not been clearly explained as required by 37 C.F.R. § 1.104(c)(2).

Applicants recognize that Cohen teaches "[i]f the requested object is stored in the cache, a copy of that object is transparently returned to the requesting client." Column 7, lines 18 and 19. However, determining whether a requested object is stored in a cache is not comparable to "monitoring *space* in a transmit buffer," as recited in claim 27. (emphasis added). Indeed, determining whether a requested object is stored in a cache is not comparable to monitoring any property of a data buffer, much less "monitoring space in said transmit buffer" and determining "if said transmit buffer has space," as recited in claim 27.

Turning now to amended claim 1, Applicants submit that Cohen does not teach "determining need for data transfer between said second and said third network elements by monitoring a property of at least one of a plurality of data buffers," as recited in amended claim 1. With respect to this feature of claim 1, the Office action cites three sections of Cohen: column 1, lines 48-58, column 3, lines 40-46, and column 7, lines 15-35. After citing these three sections, the Office action states: "checks if data requested available." Page 3. Each of the three cited sections is generally directed to a discussion of determining whether a requested object is stored in a cache. As previously mentioned, making such a determination does not anticipate monitoring a property of a data buffer (or a plurality of data buffers). Thus, claim 1 distinguishes over Cohen.

Applicants also submit that the Examiner fails to establish motivation for combining Cohen with Geagan. In response to the first Office action, dated May 5, 2005, Applicants noted the following deficiencies in the Examiner's arguments:

> Applicants are at a loss to see how one of skill in the art, at the time of invention, would have been motivated to combine these references. Cohen is simply directed to a method and system for transparently redirecting an HTTP connection request that is directed to an origin server to a proxy cache, using a proxy redirector that translates the destination address of packets directed to the origin server to the address of the proxy, as noted earlier. Geagan, by contrast, is directed to a method and system that, in the face of data loss on connections between a content source and a content consumer, opens additional connections therebetween. There is no recognition in Cohen of a need for additional bandwidth, because Cohen does not reach the issue of streaming data. Conversely, the proxy in Geagan is not concerned with the method of proxying, but of the need for additional bandwidth between the proxy and the data source, and the assembling of that data for provision to the client. The methods of proxying in Geagan are completely sufficient for Geagan's purposes. The references therefore fail to recognize any need for the other's benefits, whatever they may be, and so fail to provide one of skill the art the requisite motivation to combine their disclosures.

Page 23. In response to the foregoing argument, the Office action states

> Cohen et al's use of a cache and a buffer would have motivated one of the ordinary skill in the art at the time of the applicant's invention to combine the teaching of Cohen et al and Geagan, III et al because Geagan, III et al's use of a proxy with transmit and receive buffers controlled by a memory controller in Cohen et al's method would provide a method to monitor buffers in a proxy to support multiple simultaneous TCP connections with clients requesting data.

Page 12. Applicants respectfully disagree. Cohen's mere use of a cache and a buffer, without some other clear and particular evidence of motivation, does not provide any motivation for combining Cohen's system with various elements from Geagan. Such reasoning is conclusory and fails to support an obviousness rejection.

As stated by the Federal Circuit in *In re Dembiczak*, "Broad conclusory statements regarding the teaching of multiple references, standing alone, are not 'evidence'" of a suggestion, teaching, or motivation to combine references. 175 F.3d 994, 999, 50 USPQ2d 1614, 1617 (Fed. Cir. 1999) (citations omitted). Thus, the conclusory reasoning in the Office action provides no evidence of motivation to combine the references. A suggestion, teaching, or motivation to combine the references "must be clear and particular," and the Office action fails to indicate any such teaching or suggestion. *Id.*

For at least the foregoing reasons, Applicants respectfully submit that the invention, as recited in claim 1, is not made obvious by Cohen, taken in permissible combination with Geagan, and/or skill in the art at the time of invention. Applicants submit that claims 32, 63, and 94 distinguish over the cited references for at least the same reasons that claim 1 distinguishes over the cited references. Applicants also note that claim 27, as well as claims 58, 89, and 120, further distinguish over the cited references for at least the reasons mentioned in the foregoing discussion of claim 27. Therefore, Applicants respectfully submit that dependent claims 2-31, 33-62, 64-93 and 95-124, which depend variously from independent claims 1, 32, 63 and 94, are not obvious for at least the foregoing reasons. Applicants therefore respectfully submit that claims 1-124 are in condition for allowance.

CONCLUSION

In view of the amendments and remarks set forth herein, the application is believed to be in condition for allowance and a notice to that effect is solicited. Nonetheless, should any issues remain that might be subject to resolution through a telephonic interview, the Examiner is invited to telephone the undersigned at 512-439-5084.

I hereby certify that this correspondence is being deposited with the United States Postal Service as First Class Mail in an envelope addressed to: Mail Stop RCE, Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450, on **March 30, 2006**.

Attorney for Applicants — Date of Signature: 3/30/06

Respectfully submitted,

Samuel G. Campbell, III
Attorney for Applicants
Reg. No. 42,381
Telephone: (512) 439-5084
Facsimile: (512) 439-5099